



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/4575**

**Re: Property at 2/2 27 Ogilvie Street, Dundee, DD4 6SE (“the Property”)**

**Parties:**

**LKS Properties Ltd, The Mill, Wattery Butts Farm, Grange, Errol, PH2 7SZ (“the Applicant”)**

**Mr David Strachan, 2/2 27 Ogilvie Street, Dundee, DD4 6SE (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Leslie Forrest (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £2000 (TWO THOUSAND POUNDS) paid at instalments of £300 (THREE HUNDRED POUNDS) per month from 2<sup>nd</sup> June 2024.**

**Background**

1. An application was received by the Housing and Property Chamber dated 19<sup>th</sup> December 2023 then amended on 20<sup>th</sup> December 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 29<sup>th</sup> February 2024 all parties were written to with the date for the Case Management Discussion (“CMD”) of 9<sup>th</sup> April 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 21<sup>st</sup> March 2024.

3. On 1<sup>st</sup> March 2024, sheriff officers served the letter with notice of the hearing date and documentation the Respondent. This was evidenced by Certificate of Intimation dated 1<sup>st</sup> March 2024.
4. On 1<sup>st</sup> March 2024, the Applicant's representative emailed the Housing and Property Chamber to increase the amount sought to £3258. A rent account for the period 31<sup>st</sup> July 2019 to 1<sup>st</sup> March 2024 showing arrears for £3258 was lodged with the email.
5. On 11<sup>th</sup> March 2024, a Time To Pay Direction ("TTPD") was lodged with the Housing and Property Chamber. The TTPD offered £500 per month to the arrears. The TTPD was dated 3<sup>rd</sup> March 2024.
6. On 2<sup>nd</sup> April 2024, the Applicant's represented emailed the Housing and Property Chamber accepting the TTPD.
7. The case was conjoined with case FTS/HPC/EV/23/4570.

#### The Case Management Discussion

8. A CMD was held 9<sup>th</sup> April 2024 at 2pm by teleconferencing. The Applicant was not present. Mr Grant Smith, the husband of the Director of the company was present on her behalf. The Applicant was represented by Ms Melissa Coleman, Struan Baptie Property Management Ltd. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
9. A submission with a Time To Pay Direction was lodged with the Housing and Property Chamber. This was crossed to the Applicant. Ms Coleman confirmed that she was able to accept the amount of £500 per month noting both she and the Applicant had concerns about the affordability of the offer. She said that the Applicant would be content to take an offer of £300 if it was maintained and the rent was paid in full each month. The Tribunal noted that the Respondent was legally obliged to pay the rent each month. Failing to do so would only increase the arrears. The Tribunal noted that it had similar concerns. It is within the powers of the Tribunal to grant a TTPD for less than applied for. This does not limit the Respondent from paying £500 per month as this will reduce the arrears faster and at the rate that the Respondent wants to reduce them. However, the Respondent should make sure that he never pays less than the £300 per month as that will be a breach of the TTPD and the Applicant can then get the Order converted to a full order.
10. The Respondent paid £1221.50 on 2<sup>nd</sup> April 2024. This has reduced the arrears to £2000. The payment was a payment towards the ongoing rent charge and the arrears. Ms Coleman said that the Respondent suggested to her that he is keen to pay the arrears to allow him to get a reference for a new property closer to his job.

11. The Tribunal was satisfied that it was appropriate to grant an Order in terms of the Time to pay Direction but at the lower rate of £300 per month. The Respondent should be clear that he is not limited that amount.

#### Findings and reason for decision

12. A Private Rented Tenancy Agreement commenced 31<sup>st</sup> July 2019.
13. The Respondent persistently failed to pay his rent charge of initially £450 per month and then £463.50 per month from 1<sup>st</sup> August 2023. The rent payments are due to be paid on first day of each month.
14. The Respondent admits the debt and lodged a TTPD to make repayments at £500 per month.
15. The Respondent paid £1221.50 to the Applicant on 2<sup>nd</sup> April 2024. This reduced the arrears to £2000.
16. Both the Applicant and the Tribunal were concerned about the level of the repayment offer given the Respondents income. The Applicant would accept £300 per month. The Tribunal considered this to be an appropriate amount for the TTPD.
17. The arrears sought total £2000.

#### Decision

18. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £2000. This will be paid by instalments of £300 per month. The Order will commence from 2<sup>nd</sup> June 2024 to allow for the appeal period to have lapsed before service of the Order.

#### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

**Gabrielle Miller**

**9<sup>th</sup> April 2024**

**Legal Member/Chair** \_\_\_\_\_

**Date** \_\_\_\_\_